

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$33,778.47 for the months of August 2010 through January 2011. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$1,053.05 for the period September 2010 through January 2011. (Exhibit B, affidavit of John Libby)

5. The Defendant owes interest on the unpaid ERISA contributions in the amount of \$455.65 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). (Exhibit B)

6. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$3,563.35 for the period September 2009 through January 2011 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(ii). (Exhibit B)

7. The Defendant owes the sum of \$2,652.00 for necessary and reasonable attorney fees and costs of \$350.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). (Exhibit C, affidavit of Daniel P. McAnally)

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$41,852.52.

Respectively submitted,

s/ DANIEL P. McANALLY
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